

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Official Action, the Examiner rejects claim 2 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,105,239 to Akczinski, Sr., (hereinafter “Akczinski”). Additionally, the Examiner rejects claim 2 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,325,433 to Nicholson et al., (hereinafter “Nicholson”). Furthermore, the Examiner rejects claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Nicholson in view of U.S. Patent No. 4,445,525 to Slover et al., (hereinafter “Slover”). Still further, the Examiner rejects claims 2, 4 and 5 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,540,433 to Brockman (hereinafter “Brockman”) in view of U.S. Patent No. 3,822,419 to Wilson, Sr. (hereinafter “Wilson”). Still further, the Examiner rejects claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Brockman and Wilson and further in view of Slover. Still further, the Examiner rejects claims 2, 4 and 5 under 35 U.S.C. § 103(a) as being unpatentable over Brockman in view of U.S. Patent No. 3,484,981 to Gilmer (hereinafter “Gilmer”). Still further yet, the Examiner rejects claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Brockman and Gilmer and further in view of Slover. Lastly, the Examiner rejects claims 29 and 31 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,632,175 to Marshall (hereinafter “Marshall”) in view of Brockman.

In response, Applicants respectfully traverse the Examiner’s rejections under 35 U.S.C. §§ 102(b) and 103(a) for at least the reasons set forth below. However, independent claim 2 has been amended to include the features of dependent claims 4 and 5. Consequently, dependent claims 4 and 5 have been canceled.

Regarding claim 2 and Akczinski and Nicholson, the Examiner has cited a magnetic tool as reading on claim 2. As discussed above, claim 2 has been amended to include the features of claims 4 and 5. Applicants respectfully submit that neither Akczinski nor Nicholson disclose or suggest a catch unit for catching a medical capsule discharged from within a human body, where the catch unit is a net for retrieving or catching the medical capsule and the net for retrieving or catching the medical capsule is made of a magnet or a magnetic material.

With regard to the rejections of claim 2 based on Brockman, the same discloses a net for capturing solid waste and is configured to attach to a toilet. The Examiner combines the same with Wilson as teaching the magnetic material for attracting the capsule. However, Wilson teaches that the fasteners for mounting the urine conveyor on the toilet seat may be magnetic. Wilson does not disclose or suggest that the magnet be configured to catch something magnetic discharged from the urine. The Examiner also combines Brockman with Gilmer to reject claim 2. Gilmer discloses a fish net that may use magnets (15, Figures 3 and 4). However, such magnets are not used to attract any magnetic material in the net but to fasten the netting to the rim of the net. Thus, both Wilson and Gilmer teach magnetic fasteners and not for retrieving an object from the waste of a subject.

With regard to claim 29, the Examiner now agrees that Marshall does not inherently disclose catching the medical capsule with a catch unit. However, the Examiner now combines Marshall with Brockman since Brockman teaches retrieving and catching internal parasites. Applicants respectfully disagree.

Although Brockman may be said to disclose catching the parasites, it cannot be said to retrieve the parasites. Retrieval implies that you once had the object and are getting it

back (retrieving). Thus, the capsule is introduced and retrieved, the parasites are never introduced but naturally occurring, therefore, they are caught for the first time in the device of Brockman. Thus, Brockman does not disclose or suggest a retrieval method for retrieving a medical capsule from a subject.

With regard to the rejection of claim 2 under 35 U.S.C. § 102(b), a medical capsule retrieval device having the features discussed above and as recited in independent claim 2, is nowhere disclosed in either Akczinski or Nicholson. Since it has been decided that “anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,”¹ independent claim 2 is not anticipated by either Akczinski or Nicholson. Accordingly, independent claim 2 patentably distinguishes over both Akczinski and Nicholson and is allowable. Consequently, the Examiner is respectfully requested to withdraw the rejections of claim 2 under 35 U.S.C. § 102(b).

With regard to the rejections of claims 2, 4 and 5 under 35 U.S.C. § 103(a), independent claim 2 is not rendered obvious by the cited references because neither the Brockman patent, the Gilmer patent nor the Wilson patent, whether taken alone or in combination, teach or suggest a medical capsule retrieval device having the features discussed above and recited in independent claim 2. Accordingly, claim 2 patentably distinguishes over the prior art and is allowable. Claims 4 and 5 have been incorporated into claim 2 and have been canceled, thereby rendering the rejections thereof moot. Consequently, the Examiner is respectfully requested to withdraw the rejections of claims 2, 4 and 5 under 35 U.S.C. § 103(a).

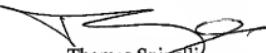
¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

With regard to the rejections of claim 10 under 35 U.S.C. § 103(a), since independent claim 2 patentably distinguishes over the prior art and is allowable, claim 10 is at least allowable therewith because it depends from an allowable base claim. Consequently, the Examiner is respectfully requested to withdraw the rejection of claim 10 under 35 U.S.C. § 103(a).

With regard to the rejection of claims 29 and 31 under 35 U.S.C. § 103(a), independent claim 29 is not rendered obvious by the cited references because neither the Marshall patent nor the Brockman patent, whether taken alone or in combination, teach or suggest a retrieval method for retrieving a medical capsule having the features discussed above and recited in independent claim 29. Accordingly, claim 29 patentably distinguishes over the prior art and is allowable. Claim 31, being dependent upon claim 29 is thus at least allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 29 and 31 under 35 U.S.C. § 103(a).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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